



SUBJECT: EXPIRED APPROPRIATIONS

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3-50-10 PURPOSE AND SCOPE

This chapter implements 31 U.S.C 1552 ("M" Account Legislation). This law prescribes the rules for the availability of appropriation and fund balances and establishes procedures for accounting for annual and multi-year expired appropriation accounts.

It abolishes the practice of transferring obligated balances after 2 years from expired accounts to "M" accounts, otherwise known as successor merged appropriation accounts, where they would have remained available indefinitely for disbursement to liquidate "valid" obligations and payables (by valid is meant those obligations incurred in the unexpired year and adjusted during the expired years). In replacing this practice, the new law now mandates that:

- The duration of expired accounts as identified by fiscal year be extended from 2 expired years to 5 expired years.
- During this 5 year period, unliquidated obligated balances may be adjusted and the associated disbursements may be made, but no new obligations may be incurred during the expired years.

- On September 30 of the 5th fiscal year after obligation authority has expired, all obligated and unobligated balances must be cancelled and the expired account cancelled, unless authority has been given to liquidate obligations under a longer period than 5 years as discussed in 3-50-30.
- Should payments of valid obligations and payables be required after the 5th expired year when the balances are no longer available because they have been duly cancelled, such payments must be paid in one of two ways: 1) from the current year unexpired appropriation or 2) as the result of a change in the legislative authority on the original appropriation to extend beyond the standard 5 year expiration period (this later action should be done, when necessary, through the auspices of the ASMB, prior to the end of the 5th year).

This chapter incorporates guidance as promulgated in OMB Circular No. A-34, Instructions on Budget Execution; guidelines for cancelling and closing expired accounts as set forth in section 2030.40 of I TFM 2-2000, Nonexpenditure Transactions; and guidance on reporting procedures specified in section 4240 of I TFM 2-4200, Agency Reports on Unexpended Balances of Appropriations and Funds (FMS Form 2108: Yearend Closing Statement), and I TFM Bulletin 98-04, Extended Authority to Liquidate Obligations.

3-50-20 **AUTHORITY**

OMB Circular No. A-34 provides the budget execution procedures for annual and multi-year appropriations including cancelling expired accounts. I TFM 2-2000 and 2-4000 establishes the reporting procedures for closed accounts. No-year appropriations will continue to be cancelled on a case by case basis when the purpose of the appropriation has been achieved.

TFM Bulletin No. 98-04 provides instructions on how to notify Treasury of legal authority to liquidate obligations beyond the normal period of availability. Extended authority to liquidate obligations may be granted through specific legislation which allows the **obligated** balance for an annual year or multi-year account to remain on the books and available for **disbursement purposes only** for a specified period of years.

3-50-30 DURATION OF EXPIRED ACCOUNTS

The duration of expired accounts is increased from 2 to 5 years. Previously, accounts were maintained for 2 expired years after which the expired accounts were rolled over into a successor merged ("M") account.

Under these revised procedures, expired accounts will be maintained for 5 fiscal years following the expiration of the original appropriation. After the 5th expired year, the obligated and unobligated balances shall be cancelled and the budget authority is withdrawn to Treasury; any receivables or payables remaining on the account are cancelled for the appropriation. Closing procedures and transactions are provided in chapter 3-70.

Some Federal programs have a legitimate need to liquidate obligations over a longer period than 5 years. For example, construction projects may dictate that funds should not be disbursed until various project stages are satisfactorily completed, and this may take 7-10 years or longer. In order to extend authority to liquidate obligations beyond the normal period of availability of 5 years, appropriate language must be cited. According to OMB Circular A-11, such language should read as follows:

"Provided, that such sums are to remain available through 20XX for the disbursement of funds obligated on FY 19BY."

After the original 5 fiscal year period of availability, only obligated balances may remain on the books for these accounts and any amounts deobligated would be cancelled at the end of the fiscal year on the Year-end Closing Statement (FMS Form 2108). In order to extend the availability of unobligated balances, refer to the instructions in the Treasury Year-end closing bulletin.

3-50-35 APPORTIONMENT REQUIREMENTS FOR PAYMENT OF CANCELLED OBLIGATIONS

Beginning in FY 1992, agencies are required to request that OMB apportion up to 1 percent of the appropriated amounts of every affected annual and multi-year account for paying valid obligations and payables related to cancelled accounts.

**3-50-40 PAYMENT OF CLAIMS AGAINST CANCELLED ACCOUNTS -
 ALTERNATIVE I: USING CURRENT YEAR FUNDS**

For the majority of obligations and payables, the payment of old claims on cancelled accounts must be funded and paid from current year appropriations. This refers to both the obligations that have been cancelled as well as to the valid obligation adjustments made to cancelled accounts which may never have been recorded. After the 5th expired year, when all balances are cancelled, obligation and payment of the cancelled balances must be funded and paid from the current year unexpired appropriation unless the budgetary or legislative alternatives are used (see 3-50-50).

Alternative I provides that the current year appropriation funds used for payment must be for the same general purpose as the cancelled account and these funds are subject to the following limitations:

- the cumulative total of all payments to be made from the current year appropriation to cover cancelled account balances is limited to 1% of the current year appropriation (Note: The reference to current year appropriation is not the same as total budgetary resources, which include not only the current year appropriations, but reimbursements and other income, user fees, recoveries of prior year obligations, etc.), and
- the cumulative total of all payments cannot exceed the cancelled appropriation's original unexpended balance or the unexpended balance of the original available apportionment and allotment, whichever is the appropriate level of control for the cumulative payments in question.

Surpassing either of these limits is a violation of the Anti-deficiency Act. Before recording the obligation and payment in the current year appropriation account, the above 2 tests must be successfully passed. The 1st test is controlled through the allotment/allowance process. To carry out the 2nd test, it is necessary to maintain the unexpended balance from the original appropriation in the accounting system even after the cancelled funds have been returned to Treasury. Accordingly, the unexpended balances recorded in the general ledger as expired appropriations will be retitled and maintained in the records as cancelled authority. These cancelled, but unexpended balances, will need to be updated in future years as cancelled year

obligations are recorded and charged to the current year appropriation.

A new transaction and a special general ledger undelivered order subaccount has been established for recording these obligation adjustments in the cancelled year's budgetary memorandum accounts. This will be addressed in more detail in chapters 4-40 and 3-70.

To make payments, each Operating Division (OPDIV) must request a special subclass account from Treasury for each current unexpired annual and multi-year account. Payments from the current year appropriation related to a cancelled account must be recorded and reported on the monthly SF 224 charged to the subclass account.

To simplify the funds control tests and the associated accounting, all such payments will be made at the agency headquarters rather than at the decentralized operation points (such as the Regional Offices). The supporting documentation will still be assembled and coordinated by the decentralized organization and forwarded to the headquarters accounting point for payment.

**3-50-50 PAYMENT OF CLAIMS AGAINST CANCELLED ACCOUNTS -
ALTERNATIVES II AND III: USING BUDGETARY AND
LEGISLATIVE APPROACHES**

Other than paying valid cancelled obligations using funds from the current year appropriation account as discussed in 3-50-40, two additional alternatives are allowed:

- This 2nd alternative would apply when the nature of a program requires payments beyond the 5 expired years, e.g. construction grants and certain block grants. If this criteria is met, then proposed changes to the appropriation language may be submitted as part of the budget process through the Department and OMB to Congress requesting approval to extend the number of expired years, or to keep the appropriation open indefinitely, or
- Under the 3rd alternative, Agencies may request, as part of their budget submission, the reappropriation of cancelled balances. However, payments must be deferred until the appropriation is available.

Each agency should review those accounts and associated programs subject to this legislation and, where it is appropriate and can be justified, develop plans to seek relief as defined above, e.g. construction grants and applicable block grants. Agencies' accounting systems must be able to identify the appropriations which are exempt from this legislation or those accounts that are maintained beyond 5 years, i.e., not cancelled after 5 years.

3-50-55 CANCELLED ACCOUNT COLLECTIONS

When an expired account is cancelled, all open receivables and refunds to cancelled accounts are to be transferred to and accounted for as Miscellaneous Receipts Receivables together with the associated allowance for loss. Upon collection, the funds will be deposited to the Miscellaneous Receipts account.

3-50-60 ANNUAL CERTIFICATION OF OBLIGATED BALANCES

Each finance office is responsible for performing a document-by-document review of all unpaid obligations at the end of each fiscal year. Based upon this annual review, unpaid obligations no longer valid should be deobligated during the 5 expired years of the appropriation, and cancelled at the expiration of the 6th year unless extended authority has been granted to liquidate obligations over a longer period than 5 years.

The submission by the finance office of the signed Treasury Year-end Closing Statement (FMS Form 2108) at fiscal year-end satisfies this certification requirement attesting that the annual review and reconciliation was performed. OPDIVS are required to certify the obligated balances and footnote the FMS Form 2108, citing the appropriate law and date of approval.

OPDIVS with the proper extended authority to liquidate obligations beyond the 5 year limit must notify Treasury in writing of the specific legislation in order for the account to remain on Treasury's books. The notification should be sent to:

Finance Management Branch
Funds Management Division
Financial Management Service
Department of the Treasury
3700 East-West Highway, Room 6F06
Hyattsville, MD 20782
(Telephone: 202-874-9950)

All workpapers and records are to be retained for audit purposes.

**3-50-65 APPROVAL AND REPORTING REQUIREMENTS FOR CONTRACT
CHANGES**

Approval and reporting requirements for obligation adjustments related to "contract changes" are required in expired appropriation accounts; it does not apply to unexpired appropriations.

By definition, a contract change is limited to changes on an existing contract under which a contractor is required to perform additional work to accomplish a previously defined explicit objective. It does not include adjustments related to an escalation clause.

The following reporting requirements relating to such contract changes, utilizing Department specified dollar thresholds lower than required by OMB guidelines are to be observed:

- When a transaction will cause cumulative increases at the appropriation level for contract changes during a fiscal year to exceed **\$3 million**, requests for approval shall be submitted to the Secretary through the Assistant Secretary for Management and Budget (ASMB).
- When a transaction will cause cumulative increases at the appropriation level for contract changes during a fiscal year to exceed **\$24 million**, requests for approval shall be submitted to the Secretary for submission to Congress through the ASMB.

No obligation may be made or recorded in the Agency's accounting system until the request has been submitted and a period of 30 days has elapsed after the submission of the request.